

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| AN INVESTIGATION INTO THE ELIMINATION) | |
| OF SWITCHED ACCESS SERVICES DISCOUNTS) | ADMINISTRATIVE |
| AND ADOPTION OF TIME-OF-DAY SWITCHED) | CASE NO. 336 |
| ACCESS SERVICE RATES) | |

O R D E R

This matter arising upon motion of South Central Bell Telephone Company ("South Central Bell") filed August 16, 1991 for reconsideration of the Commission's Order of August 6, 1991 denying confidential protection to South Central Bell's forecasts of access minutes of use for 1991 and 1992, and it appearing to this Commission as follows:

By petition filed February 15, 1991, South Central Bell sought protection for Attachments D, E, and F of its response to Item 2 of the Commission's data request contained in its Order of January 25, 1991; information contained in Attachments D, E, and F of its response to Item 3 of the Attorney General's data request of December 21, 1990; and the information contained in the attachment to Item 5, the attachment to Item 17, and the attachments to Items 19 A and B of AT&T's data requests of December 21, 1990. As grounds for its petition, South Central Bell stated that disclosure of the information was likely to cause it competitive injury.

The information that South Central Bell is primarily concerned with is found in its response to AT&T's request, Item 5. That information contains South Central Bell's forecasted access minutes of use for 1991 and 1992. The remaining information sought to be protected consists of price outs from which the forecast information can be derived. Therefore, the price out information is only entitled to protection if the forecast information is entitled to protection.

In support of its original petition, South Central Bell stated that disclosure of the information would reveal to its competitors in the long-distance market the potential size of the long-distance intraLATA market. In denying protection, the Commission found that because the information sought to be protected would not include South Central Bell's share of the intraLATA market, it would not reveal to competitors the total size of the market.

In its petition for reconsideration, South Central Bell maintains that the information sought to be protected could be used to determine the financial impact that intraLATA competition will have upon South Central Bell and that knowledge of this information will allow its competitors to determine how strong South Central Bell's response to competition will be. That information, however, is no longer confidential. In Administrative Case No. 323,¹ South Central Bell presented

¹ Administrative Case No. 323, An Inquiry Into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Competition of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

evidence which is now a part of the public record which showed the impact that South Central Bell anticipated would result from intraLATA competition. In addition, in Case No. 90-256² now pending before the Commission, South Central Bell, by requesting authority to reduce toll and access rates, which it says it must do in order to meet the new competition it will face in the intraLATA market, has revealed what its response to intraLATA competition will be. Therefore, public disclosure will not reveal the financial impact that intraLATA competitors will have upon South Central Bell, and will not reveal South Central Bell's intended response to such competition and, thus, the 1991 and 1992 forecasts are not entitled to protection on those grounds.

As additional grounds, South Central Bell maintains that alternative access providers could use the forecast information to determine the size of the access market for the purpose of setting alternative access arrangements. The size of the market, however, can be determined from other sources. Such statistical information in South Central Bell's annual reports contained the revenue fund distribution reports filed in Case No. 8838. Therefore, the information being available from such historical sources, it likewise is not confidential and is not entitled to protection.

As its final ground, South Central Bell maintains that budgets and forecasts are not actual results but are the product

² Case No. 90-256, A Review of the Rates and Charges and Incentive Regulation Plan of South Central Bell Telephone Company.

of management's expertise, and that similar information has been granted protection in other proceedings. The issue, though, is not the nature of the information but whether the information is confidential and, if disclosed, would result in competitive injury. Because the information sought to be protected in this proceeding is available from historical sources, it is not confidential and not entitled to protection. Therefore, the motion for reconsideration should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The motion to reconsider the Commission's Order of August 6, 1991 is denied.

2. The information sought to be protected from disclosure shall be held as confidential and proprietary for a period of five working days from the date of this Order, at the expiration of which, it shall be placed in the public record.

3. All other provisions of the Order entered August 6, 1991 not inconsistent herewith shall remain in full force and effect.


Done at Frankfort, Kentucky, this 5th day of September, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director

Commissioner